



December 16th, 2020

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**Comments on Permit Application ID: [2-6101-00071/00024](#)**

Dear Ms. Nichols,

On behalf of the Newtown Creek Alliance, we submit the following comments in regards to permit application ID 2-6101-00071/00024. Since 2002, our organizations have worked tirelessly to restore Newtown Creek and protect the health of those living and working in surrounding upland areas. We are very concerned that this permit application may bring environmental harm to our community and should be denied because it fails to address the following issues:

**Impacts on Local Air Quality and Human Health**

While the notice states that “this application proposes to downgrade the current ATV to an ASF Permit by capping facility-wide NO<sub>x</sub> emissions to 24.9 tons per year” it does not give any clear indication as to what the current emission levels are and what the anticipated future levels will be, nor does it give any context as to what the impacts of up to 24.9 tons per year mean for local health risk and regional greenhouse gas emissions. Does the ‘downgrade’ coincide with an actual reduction in airborne pollution, namely NO<sub>x</sub>? In other words, will the increase in output at the facility lead to an increase in NO<sub>x</sub> or other pollutants, even if the emissions remain below the threshold for a federal permit?

Given the effects of NO<sub>x</sub>, both as primary contributor to ground level ozone, and well documented impacts on human health (including respiratory and breathing problems, headaches, chronically reduced lung function, eye irritation, loss of appetite, and corroded teeth) we firmly believe that any increase in emissions for the facility should not be permitted. Instead regulatory agencies should be working to reduce emissions at every opportunity.

**Environmental Justice and Permitting**

In the posted notice it is stated that “[i]t has been determined that the proposed action is not subject to CP-29” (Environmental Justice and Permitting). According to the DEC Commissioner, Policy 29 was adopted to address “the lack of meaningful public participation by minority or low-income communities in the permit process; the unavailability or inaccessibility of certain information to the public early in the permit process; and the failure of the permit process to address disproportionate adverse environmental impacts on minority and low-income communities.” For guidance in which type of permits may apply to CP-29 the DEC offers “the policy shall apply to applications for major projects and major modifications for the permits authorized by the following

sections of the Environmental Conservation Law... ii. article 19, air pollution control.”<sup>1</sup> Given that this application is for article 19 and clearly located in a DEC designated potential Environmental Justice area<sup>2</sup> we must insist that the numerous stipulations outlined for CP-29, including an Enhanced Public Participation Plan; Full Environmental Assessment Form; and Environmental Impact Assessment must be applied.

### **Justification for “Increased demand for Natural Gas”**

We take serious issue with the application’s language insinuating that there is a need for greater natural gas use; and that the permit should be granted to allow for greater capacity:

“With this application, the two new CNG heaters will supplement natural gas supply by injecting CNG delivered by trucks as needed during periods of peak demand. Each burner will exhaust through individual stack for a total of four (4) new stacks. The two new vaporizers will exhaust through individual stacks and are proposed *to meet the increased demand for natural gas and increase the Facility's send out capacity.*” (italics added)

Not only is there no increased demand for natural gas, but both the City and State have implemented recent legislation to ensure significant reductions in greenhouse gas emissions (as may be increased with this permit application). The Climate Leadership and Community Protection Act, which is now State law, mandates a 40% reduction in Greenhouse Gases by 2030, specifically targeting methane and nitrous oxide. Allowing for an expansion of fossil fuel infrastructure and “send out capacity” with this permit is unconscionable in the current climate change crisis and is in direct contrast from the objectives of the DEC itself.<sup>3</sup> We are fully supportive of the CLCPA goals and believe the DEC should deny any permits that may increase fossil fuel dependence, infrastructure, and use.

### **Increases in Local Truck Traffic and Risks of CNG Trucking**

We are very concerned that this permit will lead to an increase in local truck traffic within an existing overburdened area. The proximity to the Brooklyn Queens Expressway, siting of waste transfer stations (some of the highest concentrations within NYC), and rapid growth of last-mile distribution centers within the North Brooklyn IBZ have resulted in significant truck traffic and the resulting impairments to local air quality and street safety. As stated: “With this application, the two new CNG heaters will supplement natural gas supply by injecting CNG delivered by trucks as needed during periods of peak demand.” Additionally, the trucking of CNG presents a significant risk within a heavily populated area like Brooklyn, if a traffic crash were to occur and damage these virtual pipeline trailers.<sup>4</sup> We do not believe DEC should grant a permit that fails to provide proper accounting of increased truck traffic or address the risks that CNG trucking may have on the surrounding Environmental Justice community.

### **Current Contamination and Superfund Legacy Should be Prioritized:**

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<sup>1</sup> [https://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/cp29a.pdf](https://www.dec.ny.gov/docs/permits_ej_operations_pdf/cp29a.pdf)

<sup>2</sup> [https://www.dec.ny.gov/docs/permits\\_ej\\_operations\\_pdf/kingsejdetail.pdf](https://www.dec.ny.gov/docs/permits_ej_operations_pdf/kingsejdetail.pdf)

<sup>3</sup> <https://www.dec.ny.gov/press/121141.html>

<sup>4</sup> <https://www.desmogblog.com/2019/05/21/virtual-pipelines-fracking-compressed-natural-gas-trucks>

The previous operations at the National Grid facility have left significant amounts of contamination in both the local soils and waters. According to DEC<sup>5</sup>, the site is contaminated by the following chemicals of concern:

- + Light hydrocarbons: Benzene, Toluene, Ethylbenzene and Xylene (BTEX)
- + Semivolatile Organics: Polycyclic aromatic hydrocarbon (PAHs)
- + Polychlorinated biphenyl (PCBs) in Groundwater
- + Manufactured Gas Plant Waste in the form of Non-Aqueous Phase Liquid (NAPL) below the groundwater table

Prior to 2012, there have been 11 separate environmental investigations at the site, relating to potential underground plumes, groundwater contamination, and subsurface and surface soil contamination from previous operations and demolition of structures. The company suspended use of a baseball field following a 2010 investigation of the area and Interim Remedial Measures were overseen by DEC in 2005, 2006, and 2007.<sup>6</sup> As of 2020, National Grid is still removing contaminated soil from the site and DEC is reviewing draft versions of a remedial investigation. The company is one of the original Potentially Responsible Parties to the EPA-led Superfund investigation of Newtown Creek, wherein data collected shows the sediments off the shore of the facility (the Turning Basin area of Newtown Creek) to be some of the most contaminated in the entire Superfund site for PAHs.<sup>7</sup> Remnants of Coal Tar that were processed at this facility still bubble up to the surface waters of the Turning Basin during low tide events, presenting immediate health risks to humans and wildlife alike, and it is unclear how contamination may be currently migrating from the facility into the waterway.

In short, this facility is a major environmental burden for the community. There is no comprehensive cleanup plan in place yet for the facility itself, or the adjacent waterway that previous operations have poisoned. We strongly believe that the highest priority for this facility, specifically in regards to the responsibilities of the DEC, is to cleanup and mitigate current environmental hazards. Allowing this long-standing pollution to remain in place while considering a permit to expand operations is an environmental injustice that we oppose.

### **Community Engagement and Education**

In addition to the various concerns about how this permit may negatively impact the surrounding communities; we are also very concerned about the process by which the community has been engaged and informed. Neither the Community Board, the local residents (including NYCHA's Cooper Park Houses), local elected officials, nor locally-based community organizations such as ours were contacted by DEC or National Grid about this permit application. Additionally, the comment period was offered for a minimal amount of time that coincided with a major national holiday. Lastly, the permit notice only offers the opportunity to gather more information about this permit and relevant supporting materials and regulations by visiting the DEC office "during normal business hours." Expecting the public to visit an indoor office to review documents is completely unacceptable

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<sup>5</sup> [https://newtowncreekcag.files.wordpress.com/2020/07/brief.hw\\_241117.2020-07-15.uplands-for-the-cag.pdf](https://newtowncreekcag.files.wordpress.com/2020/07/brief.hw_241117.2020-07-15.uplands-for-the-cag.pdf)

<sup>6</sup>

<http://newtowncreek.info/docs2/2%20Remedial%20Investigation/Remedial%20investigation%20Support%20Documents/Data%20Applicability%20Report/Appendix%20C/National%20Grid%20Greenpoint%20Energy%20Center%2005-2012%20DRAFT.pdf>

<sup>7</sup> [https://newtowncreekcag.files.wordpress.com/2018/02/newtown-2\\_20\\_18\\_mtg\\_presentation\\_draft\\_rev-6.pdf](https://newtowncreekcag.files.wordpress.com/2018/02/newtown-2_20_18_mtg_presentation_draft_rev-6.pdf)

during the peak of a pandemic that is claiming 3,000 American lives a day and wherein the State and City directives advise residents to avoid travel and being indoors with other people. Phone calls to the DEC office number listed have only led to a voicemail advising people to send inquiries via email due to the pandemic. As stated in both a joint letter to DEC and earlier email; we retain our firm belief that:

1. The comment period for this application needs to be extended to 90 days.
2. DEC should host an online public meeting to present the permit applications and take questions and comments from the public regarding any and all public health concerns.
3. Answers need to be provided to the community regarding the apparent conflict between State and City directives to reduce greenhouse gas emissions and cease the construction of fossil fuel infrastructure, respectively, and the basic premise of this permit application.

We thank you for your time and consideration of these comments and look forward to a dialog in addressing community concerns and questions.

Sincerely,



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CC:

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